DIVORCE ON PLEA OF DRUNKENNESS

Court of Appeals Defines Meaning of Code.

TERM "LEGAL SEPARATION"

Justice Alvey Shows Section Is Explicable Under Provisions of Revised Statutes.

The decision of the Court of Appeals in the cause of Maschauer vs. Maschauer, for a limited divorce, settles the mode o procedure in this class of cases in the District. The opinion of the court, stated below, is practically the first construction of section 966 of the cod ade by the higher court since its adoption January 1, 1901, and so opens up the way for the final adjudication of a hundred or two of similar proceeding pending before the District Supreme

In October, 1902, Amelia Maschaue commenced proceedings for divorce a mensa et thoro from George W. Maschauer on the ground of cruelty endan gering her health and life. When issu was joined by her husband she asked th urt to appoint an examiner to take testimony relative to the allegation she made against her husband.

Court's Jurisdiction.

The matter came on for hearing b fore Justice Hagner, then a member o the District Supreme Court bench. Cour sel for Maschauer objected to the ap pointment of an examiner to take tes timony on the ground that the cour was without jurisdiction in the premises. This contention was upheld by the cour and Mrs. Maschauer took a special appeal to the Court of Appeals.

The principal question involved was separation from bed and board may be granted for drunkenness, cruelty or de

Justice Hagner's Views.

In discussing this term Mr. Justice Hagner said:

"The expression 'legal separation' was unknown to our law before it found its place in the code; and in the absence of some definition in the statute, is o a very uncertain significance, for separ ation by decree a mensa et thoro, o by voluntary separation of the parties executed in legal form may be equally comprehended by the phrase 'legal separation,' as should be the result of a divorce a vinculo matrimonii."

Mr. Justice Hagner, further discussing

this section in Dabney vs. Dabney, also taken up on appeal, said:

Divorce for Drunkenness.

The Congress that enacted our Re d Statutes showed its evident un willingness to authorize a divorce enness, unless its was proved to be habitual and that it 'had existed for or for cruelty, unless i endangered life or health; or for de sertion, 'unless the willful desertion and abandonment had continued for the ful and uninterrupted space of two years. These offenses, thus clearly defined, ar very different from the unexplained kind of 'drunkenness' named in the code which may be only occasional or intermittent, and may not continue mor than one year or less; from the 'cruelty which may be limited to what the courts denominate as an occasional ebullition or which may be confined to insulting language, which is sometimes denounced as mental cruelty; or from 'desertion' which may have continu only for a few weeks and may not have been continuous or evincive of an inten tion to abandon the marriage relation And yet, under the unrestricted terms of section 966, the court might be called on to decree the 'legal separation' or proof of either of these general charges.

Legislation Is Needed.

"My opinion, upon the various ques-tions I have been considering, is, that in cases which have been brought since the code went into operation, claiming only a divorce a mensa et thoro for drunkenness and its kindred offenses, there can be no decree for divorce in the absence of an amendment of the law which shall state distinctly (according to what may be the wish of Congress) whether the courts are to be empowered to decide on these cases at all, and if so, whether they are to grant the divorce according to the provisions of the old law or according to those of the code." the code.'

Counsel's Contention.

In opposition to this construction of section 266 of the code, counsel for Mrs. Maschauer argued that "taking the old law as an index to the meaning and intention of Congress in enacting the new-law, we find that 'drunkenness,' as used in section 966 of the code, means 'habitual drunkenness;' that 'cruelty' means 'cruelty endangering life or health:' and that 'desertion' means 'willful desertion.' The court can have no trouble, therefore, in determining just what is necessary to entitle a party to judicial relief."

Opinion of the Court.

After citing several sections of the cole relative to the subject of divorce, Chief Justice Alvey, of the Court of Appeals, who announced the opinion of the

There are two kinds of divorce clearly contemplated by the code, and although the provision of the section on this subject is not happily expressed. it is not difficult to arrive at the intention of the legislature from the language

employed.
"It cannot be supposed," says the court, "that the term 'legal separation from bed and board, as employed in the code, can have any application to voluntary deeds of separation or to divorce a vinculo matrimonii, as the latter is a final decree, but expresses substantially the same meaning as the term 'divorce mensa et thoro,' as used

Douglass & Douglass and Baker & Sheirill appeared as counsel for Mrs. Maschauer, both in the Court of Appeals and the court below.

BANK'S MONEY DISAPPEARS; CASHIER KILLS HIMSELF

MUSCATINE, lowa, Jan. 16 .- Developments today indicate that G. F. Utter-bach, cashier of the Sigourney, Iowa, Savings Bank, who committed suicide on Monday night, was short \$47,000, the

result of speculation.

Utterbach blew his brains out just before the time scheduled for him to at-tend a directors' meeting.

Berlin Police Unmask Anarchistic Plotters

Assert That Dynamite Outrages Were Plan- Beat Mother and Sister Because Parent ned in European and American Centers Against Capitalists and Rulers.

BERLIN, Jan. 16.-The Berlin police join the Reds and contribute to epartment professes to have uncovered conspiracy with far-reaching ramifi-oppressive rulers. cations by which anarchists hope to startle European and American capital- archists are well supplied with funds. ists. As a result all of the secret ser- but where they obtain them remains a vice departments have been warned to mystery. The superintendent of police be on their guard.

and already has an enormous circulation throughout the country. In a recent issue it urged all socialists to

"wholesale massacre" of capitalists and

The Berlin police report that A new newspaper, the "Free Work- whereby dynamite outrages were to be

TO KEEP POSTOFFICES "THE KILTIES'" CLOTHES WITHIN EASY REACH

Department Will Use Telephones With Customs Officials Claim That Canadian Long-Distance Connections, Says First Assistant Wynne.

cently ruled in favor of the Bell Tele-phone Company for the Cleveland post-of "The Kilties," a crack Canadian miliphone Company for the Cleveland postoffice, has been attacked because of it, the independent company in Cleveland the "Highlanders" had unlawfully taken having the larger number of subscribers out no long-distance connections. First Assistant Postmaster General Wynne

made the following statement:
"The decision is based on the necesity of communication between the department and the postoffices of the coun ry. If the department head or the inspectors want to intercommunicate, then it is necessary they should be able do so. So far, we have, in cases where a city has two lines, taken the one that reaches Washington, and in general we intend to do that, though to not say that conditions might not arise that would cause us to decide in favor of the independent company."

MR. MYERS EMBARKS IN REAL ESTATE FIELD

in Room 312, Colorado Building. where he will conduct a general real es ate, loan and investment business. He was formerly engaged in the flour, grain and grocery business here, and has been indirectly associated with real estate Being a Washingtonian, Mr. Myers is eclally well qualified to embark in his new field, and is doing quite a extensive sales business already. has control of the realty of some Washington's largest estates, and also has not confined his interests to any take charge of the naval section particular portion of the District, but St. Louis Exposition devoted to very good section bears his sign.

SEIZED IN MICHIGAN

Bandsmen Unlawfully Took Apparel Across Border.

United States customs officials have tary band. The seizure took place eming, Mich., on the ground that

Dispatches from Ishpheming say the have been sent to Washington. This is denied at the Treasury. garments are held at Ishpheming, and Assistant Secretary Armstrong has formed the members of the band that they can have their property on payment of the value of the garments, plus the duty. If they are not redeemed in a year, they will be sold or destroyed.

HEDGES MADE CHIEF OF HYDROGRAPHIC OFFICE

Assistant Paymasters Appointed After Competitive Examination.

Commander Harry M. Hodges has bee appointed chief hydrographic officer of the Navy Department.

held to determine the fitness of appli-cants, the following men have been named as assistant paymasters in the Ben D. McGee, chief yoeman, U. S. S. Hartford; Neal B. Farwell, St. Paul,

Minn.; Reginald Spear, Norristown, Pa. SIGSBEE IN CHARGE.

Rear Admiral Sigsbee, commandant at the League Island navy yard, has been locs a vast rental business. Mr. Myers designated by the Navy Department to has not confined his interests to any take charge of the naval section at the

TOO MUCH LEARNING MADE THIS BOY CRAZY

Wanted Him to Aid in Supporting Family.

NEW YORK, Jan. 16.-A pleasantfaced Italian woman and her daughter were complainants in the Tombs police court yesterday against Arthur Cun-nerazzo, son and brother of the women. The mother and sister said that he had beaten them, because they upbraided him for not going to work and assisting in the support of the family.
"Why did you strike your mother?"

demanded Magistrate Breen. "For many reasons," replied Cunne-

"Give me a few," said the magistrate. One is that she wanted me to labor, although she knows that I belong to the literary class," said Cunnerazzo, "Another is that my mother wanted me to mmand-I say a man must command."

tion too much for my boy."
The magistrate committed the young man to Bellevue for examination

GIRL CASHIER ARRESTED FOR EMBEZZLEMENT

twenty-three years old, of Eltingville, cashler and bookkeeper of the Hartford Rubber Company, at 97 Chambers Street, was in the Tombs court today to answer a charge of embezzling \$30.08 mpany's money.

R. P. Parker, manager of the company, said she took \$239.17 as the re-ceipts on July 23 and placed on the books only \$209.09, retaining the differ-ence. Manager Parker said later that the shortage would probably be about

The young woman is bonded in the Fidelity and Casualty Company \$1,000. She was bailed out.

FEDERAL JUDGE ALLOWS SAVINGS BANK APPEAL

NORFOLK, Jan. 16.-Federal Judge Waddill today allowed an appeal by the lefendant in the case of the Monumental Savings Association of Baltimore, which recently secured an injunc tion here preventing Richard B. Fentress and others from proceeding gainst it in the Federal court at Bal-

The appeal is to the United States Circuit Court of Appeals of the Fourth district

SOLDIER AND MUSICIAN DEAD.

The deaths of Michael Brady, Com any H, Seventeenth Infantry, and Arthur J. Maxson, band, Eleventh Cavalry, have been reported to the War Department by General Wade, com-manding the Division of the Philippines.

MATTERS OF INTEREST TO ALL MUSIC LOVERS

A New Artist Here.

A new and charming addition to local music and art circles was made last week in Miss Marie Unschuld von Melasfeld, a young Austrian planist who was introduced to Washington society under the flattering patronage of the Baroness Hengelmuller, wife of the Austrian ambassador.

In addition to her pronounced ability as a musician Miss Unschuld has the distinction of having been planist at the court of Roumania and to have been honored by many European royal heads.

Miss Unschuld was born at Olmutz, Moravia, as the daughter of his excellency the imperial royal field mar-shal, Lieut. Wenzel Unschuld Ritter von Melasfeld, who had her educated love for music, and after some little like a marriage—at least with p woman of the like a marriage—at least with p woman conservatorium. She left the conservatorium crowned with the first Vienna Conservatorium. She left the which is no beautiful. Still another was that my mother say a woman should her violin studies with Profs. Maxintsak and Dont, and accounted for the government examinations in both in-"He is crazy," remarked the mother, tapping her forehead. "My husband struments with distinction. For further spent \$4,000 on his education, but, see! improvement in pianoforte playing she went to Weimar and studied Bernhard Stavenhagen. She went to Vienna and devoted herself to to further exhaustive studies with Prof. Theodor Leschetitzky, to whom she also dedicated "The Hand of the Planist." She enlarged and deepened her knowledge in counterpoint and composition with Prof. Graedener. In her concert ours through the chief towns of Europe the young artist was distinguished with honors of every kind.

Miss Unschuld's playing at the Aus-

trian embassy last week was highly Church, and actively commended upon by the distinguished and oratoric choruses. guests present. Her program was short but most artistically interpreted, and Program at St. Aloysius. proved her right to the many ho pest wed upon her in European capitals. Miss Unschuld has an attractive personality, and is most interesting. She ourposes remaining in Washington, and will give a limited number of recitals here and in other cities. The Austrian assador and Baroness Hengelmuller are highly interested in her success in America, and were delighted with her

Oscar Gareissen Resigns.

Oscar Gareissen has resigned as bass oloist at Calvary Baptist Church. His resignation will take effect on February 1. Mr. Gareissen's work at Calvary has been highly satisfactory to the congregation there, but his time is beoming most limited, as his vocal class increases in number, and he feels that he must devote his attention exclusively to his pupils.

Bispham Song Recital.

David Bispham, the celebrated bari-one, will give his only Washington conert of the season at the Columbia Theter on Tuesday afternoon, January 26. Mr. Bispham is one of the most active singers now before the concert public and his recitals are among the interesting events of each season. His Washington program will include about twenty numbers and a complete set of words

ance at the concert.

William A. Graham has retired from the quartet of the Church of the Reformation, Capitol Hill. Mr. Graham is a well known and experienced church singer and his services will undoubtedly be in demand.

Miss Sylva at Immaculate.

Francis Wilson this season in the re-vival of "Erminie," will appear in the new role of choir singer this morning. She has consented to sing the offertory at the high mass at Immaculate Conception Church, having selected a new composition by Harry Wheaton Howwith the utmost care. She showed a ard, organist of that church. The comprivate instruction, she entered the and will be heard this morning for the

This is by no means Miss Sylva's first appearance as a singer of sacred music, and she is quite as much at home in Company's building on the south and to that field as in the more alluring realm a warehouse used by the William Henof comic opera.

"Chorus Club," with William J. Palmer and the big Dun Building was saved as its musical director. The club is an outcome of the big choral concert of last Thanksgiving under Mr. Palmer's leadership, and which was successfully

Street car trefte in the lower end carried out.

applications are being considered. The Chorus Club will meet regularly on Fridays at St. Paul's English Lutheran Church, and actively study grand opera

The program at St. Aloysius today will be as follows: High mass at 11 a. m.; "Asperges Me. Klein; mass, Gullmant, in E flat; offer-"Ave Verum," Mozart.

Vespers will be sung at 7:30 p. m., with Psalms, Marzo, No. 1; "Magnificat," Marzo, No. 1; hymn, "Alma Redemp-toris," bass solo; "O Salutaris," tenor solo, Gounod; "Tantum Ergo," Wie-

Blauvelt With the Choral.

Mme. Blauvelt, the famous concert returned from an extended tour of Europe, will be heard here with the Chor-al Society, on March 13.

Mme. Blauvelt is one of the ular American singers abroad. At the London, she achieved a great personal triumph in prominent roles in four noted operas, particularly distinguishing herself as Marguerite in "Faust" and Micaela in "Carmen," with Calve. Mme. Blauvelt has had a most remarkable career, and was decorated by the late Queen Victoria of England, Queen Margherita of Italy, and the So

BUFFALO FIREMEN.HURT IN A COSTLY BLAZE

Two Hundred and Fifty Thousand Dollar Loss in a Warehouse Conflagration.

BUFFALO, Jan. 16.-Fire among the wholesale establishments and wareuses in the triangular block formed by the junction of Pearl and Erie Streets, early today, caused a loss of \$250,000, divided as follows: George Irish Paper Company, \$100,000; Julius W. Miss Marguerita Sylva, supporting Georger, \$30,000; buildings, owned by E. Eames, \$100,000; Henger Co. The losses are pretty well covered by insurance. Five firemen were

riously. which forms the apex of the triangle was not damaged.

The fire started in Julius W. George wholesale hat store. An hour after the fire was discovered Georger's was burn ed out and the flames were spreading over the roof to the George Irish Paper

gerer Company. All three buildings were of brick, five tories high, and extended through the A new choral organization was ef-fected last week and christened the in the Hengerer building was checked The flames got into the oils and paper

Street car treffic in the lower end of the business section of the city was suspended for several hours, and no was over sixty voices and a number of trains could pass the Terrace station on the New York Central tracks. Westund trains were delayed, and the Belt Line service was temporarily suspe

ESTABROOK BUREAU.

The Estabrook Bureau of Stenography and Typewriting, room 307, Colorado what enterprise and steady, persistent application can accomplish.

Mr. Estabrook's experience of two ears as a teacher of shorthand and typewriting and over ten years as court and general shorthand reporter stenographer for a Congressional Com mission, lawyers, business men, and ex departments, has thoroughly qualified him for the work.

His office is one of the best equippe

and organized of its kind in the East having a corps of competent stenograph ers and typewriter operators and ever modern mechanical appliance necessary to enable it to give prompt, efficient and satisfactory service.

Although his office has been opened less than a month he is meeting with gratifying success, the public being quick to recognize good service. As soon as it becomes generally known that quick, reliable service of this character can be secured at all hours of the day grow rapidly.

Marshal for the District, who, on account of since Monday, was much better yesterday. If Las bealth continues to improve, he will return to the City Hall tomorrow and resume his duties.

The Store that saves you money The Store that saves you money

Quick Buyers Appreciate Our Offers.

They always single us out for the bestowal of patronage. We are appreciative and always eager to build up and increase the merit that makes this store so popular. This Clean-sweep Sale offers exceptional opportunity for the close buyer. Money-saving values in every department.



\$27.50 for this handsome cantra large; handsome carvings; fine finish. Worth \$45.

\$7.95 for solid oak Sideboard.

Carpets and Rugs.

Money-saving values in Carpets and Rugs during this sale. 221c for Ingrain Carpet. Reduced from 40c.

55c for extra super Ingrain Car-pet. Reduced from 80c. 65c for heavy Brussels Carpet. Reduced from 90c.

85c for good Velvet Carpet. Reduced from \$1.25. 79c for Fringed Carpet Rug. Reduced from \$1.25.

\$14.50 for Carpet-size Brussels Rug. Reduced from \$20.

Morris Chairs.

What's left of our Morris Chair stock to be closed out

\$30 Oak-frame Morris \$20.00 \$25 Oak-frame Morris \$16.00 \$20 Mahogany - finish \$12.50 \$15 Oak Morris Chair, \$9.75 \$12 Oak Morris Chair, \$7.95

Metal Beds.

\$7.50 Mahogany Morris \$4.50

Brass. White, and Colored Enameled Beds in large variety of styles. \$50 All-brass Bed re- \$35.00 \$40 All-brass Bed re- \$29.50 \$30 All-brass bed re- \$22.00 \$12 Enameled Bed reduced \$8.75 \$10 Enameled Bed reduced \$6.75 \$8 Enameled Bed reduced \$4.95 \$6 Enameled Bed reduced \$3.75 \$3 Enameled Bed reduced \$1.48

Parlor Tables

214 Inlaid Mahogany Ta-\$6.50 \$8.00 Weathered Oak Ta-\$5.00 \$6.00 Quartered Oak Ta-\$3.95 \$4.00 Quartered Oak Ta-\$2.45 \$3.00 Mahogany - finished \$1.48

Combination Cases

Combination Cases in oak, birch, and mahogany, to be sold at one-third off the lowest price. \$45.00 Oak Combination \$30.00 \$40.00 Mahogany Com- \$27.00 \$30.00 Oak Combination \$20.00 \$25,00 Oak Combination \$16.50 \$2.95 for Ladies' Desk worth

shown, made of quartered oak, highly polished dresser and washstand; swelled front, with large mirror; bed handsomely carved. Reduced from \$50.00.

\$35.50

for this State, as

\$12.95 for Solid Oak 3-piece Bedroom Suite. Re-duced from \$20.

Extra large assortment of fine couches in latest style coverings. \$30.00 Verona-covered \$20.00 couch, now. \$20.00 Verona-covered \$14.00 \$15.00 Velour - covered \$9.75 \$12.00 Oak-frame Couch, \$7.50

Couches

\$10.00 Tufted Couch, now ... \$5.95 Specials

98¢ for Pedestal and Jardiniere worth \$2.50. 59c for beautiful Fire Screen worth \$1.25. 19c for Cloth Window Shades worth 25c. 39c for Oak Plate Rack worth

Parlor Furniture.

Over a hundred styles of Parlor Newest designs in frames and coverings-all greatly reduced. \$140 Parlor Suite re- \$95.00 \$125 Parlor Suite re- \$85.00 \$100 Parlor Suite re- \$75.00 \$75 Parlor Suite re- \$55.00 \$60 Parlor Suite re- \$45.00 \$40 Parlor Suite re- \$27.50 \$30 Parlor Suite re- \$21.75 \$20 Parlor Suite re- \$14.50

Chiffoniers.

75 patterns of Chiffoniers with and without mirrors, ir oak, birch, mahogany, and bird's-eye maple. \$40 Oak Chiffonier re- \$29.75 \$35 Oak Chiffonier re- \$27.50 \$30 Bird's-Eye Maple \$22.50 Chiffonier, reduced to..... \$25 Oak Chiffonier re- \$18.00 \$15 Oak Chiffonier, with \$9.75 \$10 Oak Chiffonier reduced \$6.75 \$6 Oak Chiffonier, reduced \$3.75



\$3.95 for this 6-foot Table duced from \$7.

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The Hub Furniture Company,

Southeast Corner Seventh and D Streets Northwest